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File No. O. Medical / 41

Legal DEPARTMENT

A BRANCH

Subject :—

Opinions under the Bombay Medical Act, 1912.

P-4

File No.
Std. Sectt. Slip 24 B e.

C O N T E N T S.

Legal Department File No. G.Medical/1941.

G.No.	Compilation No.	Subject	Pages.
1.	R.L.No.70YR dt.11-8-41.	Bombay Medical Act,1912 -	
		M Section 16. ————	
	G.No.7369 dt.11-8-41.	whether the Sind Govt is freed from the liability of bearing their nominee's travelling expenses by reimbursing the Medical Council in an equivalent amount.	1 - 2.
2.	G.No.8630 dt.30-8-41.	Sec.20 —— Whether amendment to the Schedule so as to delete qualifications of all non-Indian licensing bodies included in the second Sch. to the Indian Medical Council Act,1933 is possible under sec..	3 - 6
3.	G.No.180-L dt.1-8-41.	Sec.20 —— If course of study and examinations prescribed by any body conferring a qualification not entered in the Sch. are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it will be competent to issue a notification that the possession shall entitle a person to be registered under the Act..	7 - 8.

M.V.V. 31/8.

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R.D.No.7075
11-8-41.

Office of the R.L.A.

It appears that the Sind Government agreed to the proposal, made by the Medical Council and communicated through the Bombay Government, that on the Sind Government's nominee (Mrs.Tarabai Punnish) being included in the Council under section 2(3)(b) of the Bombay Medical Act,1912, the travelling expenses of the nominee would be borne by the Sind Government (See pages 41,47,77 and 87 of the C.D. File No.4867-III,1937-41.). The question is whether the Sind Government is freed from the liability in this respect by section 15 of the Act.

2. It is true that under section 15 read with sectic 16 of the Act and rule 54 of the rules thereunder the Medical Council is bound to pay its members including the said nominee their travelling expenses. This, however, would not release the Sind Government from its contractual liability to bear their nominee's travelling expenses by reimbursing the Medical Council in an equivalent amount. The position seems to be that while by statute the Council is under an obligation to pay its members, by contract the Sind Government is under an obligation to reimburse the Council in that behalf.

Sd. P.N.M.
30/8

Remembrancer of Legal Affairs.

U.R. to C.D. No.7369 dated the 31st. August 1941.

M.V.V.
31/8.

Office of the R.L.A.

The proposal is to amend the Schedule to the Bombay Medical Act, 1912, as shown in the draft amendment at pages 27-28 ante, so as to delete from the said Schedule qualifications of all non-Indian licensing bodies which are not included in the second Schedule to the Indian Medical Council Act, 1933. The question raised for consideration of the R.L.A. is whether such action can be taken under section 30 of the Bombay Medical Act.

2. Section 30 of the Bombay Medical Act provides inter alia that if it shall appear to the Provincial Government, on the report of the Medical Council or otherwise, that the course of study and examinations prescribed by any of the colleges or bodies conferring the qualifications described in the Schedule are not such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for the Provincial Government from time to time by notification in the Official Gazette to direct that the possession of any qualification entered in the Schedule shall not entitle any person to registration under this Act and the Schedule shall thereupon be deemed for all purposes to be altered accordingly. It is clear from the words underlined above that it is a condition precedent to taking action under this section that it should appear to the Provincial Government that the course of study and examinations prescribed by the colleges or bodies concerned conferring the qualifications in question are not such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession. Unless, therefore, this condition is satisfied in case of the qualifications proposed to be deleted in this case, it will not be competent to Government to

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to take the proposed action udner section 20 of the Act.

Sd.

27-9.

Remembrancer of Legal Affairs.

U. R. to G. D. No.8530 dated the 29th September 1941.

M.V.V.
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Office of the R.L.A.

Section 20 of the Bombay Medical Act, 1912, provides, inter alia, that if it shall appear to the Provincial Government on the report of the Medical Council or otherwise, that the course of study and examinations prescribed by any body conferring a qualification not entered in the Schedule are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for the Provincial Government by notification in the Official Gazette to direct that the possession of any qualification not entered in the Schedule shall entitle a person to be registered under the Act. If, therefore, it appears to Government on a report made to it by the Surgeon General or otherwise, that the course of study and examinations prescribed by any body such as the State Examining Board for conferring any diploma, such as L. M. P. , are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it will be competent to issue a notification that the possession of this diploma shall entitle a person to be registered under the Act. The course suggested in para. 4 of the G.D. Office note is, therefore, legally in order.

Sd. P.N.M
1/8.

Remembrancer of Legal Affairs.

U. R. to G.D. No.10[illegible] dated the 1st August 1941.

M.V.V.
31/4.